UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,715	02/06/2001	Guenter Steindl	Q062116	2378

7590   05/20/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
Suite 800
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER
SHAW, JOSEPH D

ART UNIT	PAPER NUMBER
2141	7

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 February 2001</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-12</u> is/are rejected.

7)☒ Claim(s) <u>13</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>06 February 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1.   The information disclosure statement filed February 6th, 2001 fails to
comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no
concise statement of relevance and/or English translation have been provided.
While the search report included with the references point to where pertinent
information is located in the reference, no translation is provided of these
reference, and they do not provide the examiner with a sufficient
understanding of the German documents to consider them relevant.   It has been
placed in the application file, but the information referred to therein has
not been considered as to the merits.   Applicant is advised that the date of
any re-submission of any item of information contained in this information
disclosure statement or the submission of any missing element(s) will be the
date of submission for purposes of determining compliance with the
requirements based on the time of filing the statement, including all
certification requirements for statements under 37 CFR 1.97(e).   See MPEP
§ 609 ¶ C(1).

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis
for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains.   Patentability shall not be
> negatived by the manner in which the invention was made.

3.   Claims 1-2 and 7-8 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Ruckley et al. (6,360,277) in view of Kalkunte et al.
(5,351,243).

    a.   As per claim 7, Ruckley teaches:

    a decentralized bus system (col. 3, lines 45-48);

    a first active communication participant, which is connected to
said bus system and assigned to a first master system, said first
active communication participant is configured to form a message and
transmit said message over said bus system (col. 3, lines 48-54);

    a second active communication participant which is connected to
said bus system and assigned a second master system (plural masters;
col. 3, lines 48-54); and

    a passive communication participant, which is connected to said
bus system, assigned to said second master system, and configured to
detect said message (slaves can acknowledge received messages, need a
master to communicate; col. 3, lines 53-61).

    However, the Ruckley invention does not explicitly teach a
message header and data, and application associated with the passive
communication element, or a filter table containing data entries that
is provided for said passive communication participant, wherein said
header of said message formed by said first active communication
participant comprises data entries which correspond to data entries of
said filter table, and wherein said passive communication participant
evaluates at least some of said header data, including comparing said
header data with said filter table data entries, and makes said message
data available to said application, when said header data match said
filter table data entries.

Kalkunte teaches forming a message having a header and message data, including providing data entries in the header which correspond to data entries in a filter table (packet header has a source and destination, indicates whether said packets have fields corresponding to data stored in a memory containing monitoring data; col. 33, claim 1) and evaluating at least some of the header, including comparing the header data entries with the data entries of the filter table (packet header has a source and destination, indicates whether said packets have fields corresponding to data stored in a memory containing monitoring data; col. 33, claim 1) and forwarding the received packet data into local memory (col. 3, lines 47-64).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a header and data in the Ruckley message, as taught by Kalkunte, because the header/data format for messages are standard among most communication networks, allowing the header to be separated from the data and be independently worked on by communication agents. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Ruckley invention to include a filter table at the recipient (passive communication participant) that compares header information to data in the table so that the recipient could determine which data is actually intended for that recipient and can discard all other data, as taught by Kalkunte (col. 3, lines 47-64).

However, the newly modified Ruckley invention only teaches placing the received packet data into local memory and does not *explicitly* teach forwarding the packet data to an application associated with the recepent (passive communication element).

"Official Notice" is taken that both the concept and advantages of having an application receive packet data that was received by a computing device are both well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have an application receive the packet data in the modified Ruckley invention because it would allow for applications resident on the devices to communicate over a network with other applications on other devices.

b. Claims 1-2 claim limitations similar to, or incorporated in, claim 7 and are rejected on the same grounds as claim 7.

4. Claims 3-4, 8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckley et al. (6,360,277), in view of Kalkunte et al. (5,351,243), and further in view of Stevens (TCP/IP Illustrated).

c. As per claim 8, Ruckley discloses the invention modified above in claim 7. However, the modified Ruckley invention does not explicitly teach the header comprising a source and destination address. Stevens teaches headers comprising:

a destination address and a source address (page 34, Fig. 3.1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the headers in the modified Ruckley invention include a destination and source address, as taught by Stevens, because these addresses allow for routing the messages to the correct destination, according to the destination address, and allow the recipient to know who to respond to, according to the source address.

d.   As per claim 10, Ruckley discloses the invention modified above
in claim 8.   However, the modified Ruckley invention does not
explicitly teach configuring the addresses to publish the message.
Stevens teaches:

providing message header data entries for publishing the message
(broadcast to a destination address of 255.255.255.255 so that every
device on the local cable can receive the data; page 171, Section 12.2
Broadcasting - Limited Broadcasting).

It would have been obvious to one of ordinary skill in the art at
the time of the invention to include the ability to publish messages,
as taught by Stevens, in the modified Ruckley invention because then a
sender could send out data without having to know the specific address
of the recipient it is intended for, as taught by Stevens (page 171,
Section 12.2 Broadcasting - Limited Broadcasting).

e.   Claim 3 claims limitations similar to, or incorporated in, claim
10 and is rejected on the same grounds as claim 10.

f.   As per claim 11, Ruckley discloses the invention modified above
in claim 7.   However, the modified Ruckley invention does not
explicitly teach the header lacking a destination address.   Stevens
teaches:

a header data comprising a source address but no destination
address (broadcasting to all hosts on a local cable using the address
255.255.255.255, no specific destination address; page 171, Section
12.2 Broadcasting - Limited Broadcasting).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to have no destination address for the purpose of broadcast communications, as taught by Stevens, in the modified Ruckley invention because then a sender could send out data without having to know the specific address of the recipient it is intended for, as taught by Stevens (page 171, Section 12.2 Broadcasting - Limited Broadcasting).

g.   Claim 4 claims limitations similar to, or incorporated in, claim 11 and is rejected on the same grounds as claim 11.

5.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckley et al. (6,360,277), in view of Kalkunte et al. (5,351,243), and further in view of Midgely at al. (5,592,611).

h.   As per claim 5, Ruckley discloses the invention modified above in claim 2.   However, the modified Ruckley invention does not explicitly teach the message sent by the first master being indistinguishable from a message sent by a second master.   Midgely teaches requests packets being sent out that are indistinguishable from other packets being sent out (col. 5, lines 20-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the packets sent in the modified Ruckley invention be indistinguishable from other packets sent by other hosts because this would allow for a common communications format, allowing devices attached to the network to be able to process each message the same way without the added burden of determining where in the header data may be located.

6.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckley et al. (6,360,277), in view of Kalkunte et al. (5,351,243), further in view of Midgely at al. (5,592,611), and further in view of Van Loo (5,864,677).

      i.   Claim 6 claims limitations similar to, or incorporated in, claims 1 and 5 and are rejected on the same grounds as claims 1 and 5. However, the modified Ruckley invention still does not explicitly teach an internal code in the header to identify the message as a response. Van Loo teaches a field used within the packet to uniquely identify a response to a source node.

      It would have been obvious to one of ordinary skill in the art at the time of the invention to include a response field to indicate the message is a response, as taught by Van Loo, in the modified Ruckley invention because a device receiving the response would then be able to see that the message received is a response and treat it accordingly, versus treating it as a new message.

7.   Claim 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckley et al. (6,360,277), in view of Kalkunte et al. (5,351,243), further in view of Stevens (TCP/IP Illustrated), and further in view of Wilford et al. (5,509,006).

      j.   As per claim 9, Ruckley discloses the invention modified above in claim 8. However, the modified Ruckley invention does not explicitly teach the filter table comprising source and destination address information. Wilford teaches a filter table comprising:

source address information and destination address information (access lists filter based on source and destination address; col. 16, lines 8-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the filter table in the modified Ruckley include source and destination address information, as taught by Wilford, because this would allow a network complete control over which devices can talk to each other, as taught by Wilford (col. 16, lines 8-36), allowing potential harmful addresses to be prohibited from communicating.

k.   As per claim 12, Ruckley discloses the invention modified above in claim 11.   However, the modified Ruckley invention does not explicitly teach the filter table comprising source addresses and no destination addresses. Wilford teaches a filter table comprising:

source addresses but no destination addresses (access lists filter based on source addresses or destination addresses; col. 16, lines 8-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the filter table in the modified Ruckley include source addresses and no destination addresses, as taught by Wilford, because this would allow a network complete control over which devices can talk to each other, as taught by Wilford (col. 16, lines 8-36), allowing potential harmful addresses to be prohibited from communicating.

Double Patenting

8.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application.   See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.   A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9.   Claims 1-2 and 7-9 are rejected under the judicially created doctrine

of obviousness-type double patenting as being unpatentable over claim 5 of

U.S. Patent No. 6,687,551.   Although the conflicting claims are not

identical, they are not patentably distinct from each other because:

the patented claim teaches active and passive communication subscribers

(masters and slaves), a message being formed containing source and

destination identifiers (data entries), the active communication subscriber

transmitting data to the passive communication subscriber (master

communicates to the slave) the passive communication subscriber receives the

message (detects the message) and a filter table used to match the source and

destination data addresses with values in the table before sending the data

any further (evaluating the data entries in the message and comparing them

with the data in the filter table).

However, the patented claim lacks two obvious modifications that are

claimed in the present application.   The first modification is that of a

header containing the source and destination addresses, or alternatively, the

data entries.   It is well known in the art that many communication protocol

place source and destination address information in the header. The second

obvious modification is that of making the message data available to the

application associated with the passive (slave) device. It is also well

known that computing devices execute applications that require communication

across a network and would require the data be made available to them once

the device ascertains the data communicated is actually intended for that

particular device.

Allowable Subject Matter

10. Claim 13 is objected to as being dependent upon a rejected base claim,

but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims, provided all other

matters regarding the parent claims are taken care of.

Conclusion

11. Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Joseph Shaw whose telephone number is

703-305-0094. The examiner can normally be reached on Monday - Thursday and

alternate Fridays, 7am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax

phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph Shaw
Examiner
AU 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER